



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

February 28, 2013

BY OVERNIGHT DELIVERY

NYCON Supply Corp.  
Fordham Road Concrete Corporation  
47-17 27th Street  
Long Island City, Queens New York 11101

Attention: Arthur G. Reis, Chairman and Chief Executive Officer

Re: Newtown Creek Superfund Site, Kings County and Queens County, New York  
Request for Information Pursuant to the Comprehensive Environmental Response,  
Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675

Dear Mr. Reis:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release and threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675 (also known as the "Superfund" law). More information about CERCLA, including a copy of the Superfund law, may be found at [www.epa.gov/superfund](http://www.epa.gov/superfund).

EPA has documented the release and threatened release of hazardous substances into the environment at the Newtown Creek Superfund Site ("Site"). The Site includes a body of water located in Kings County and Queens County in the City of New York and the State of New York. Newtown Creek is a tidal arm of the New York-New Jersey Harbor Estuary that forms the northwestern-most border between the New York City boroughs of Brooklyn and Queens. It is a tributary of the East River and includes Newtown Creek proper and its five branches (or tributaries) which are known, respectively, as Dutch Kills, Maspeth Creek, Whale Creek, East Branch and English Kills, along an approximately 3.8-mile reach. References in this letter to "Newtown Creek" are meant to include Newtown Creek proper and its tributaries.

In response to the release and threatened release of hazardous substances into the environment at the Site, EPA has spent public funds and anticipates spending additional public funds. These actions have been and will be taken by EPA pursuant to CERCLA.

The Site has been listed pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, on the national priorities list of releases and threatened releases of hazardous substances, based upon the relative risk or danger to public health or welfare or the environment, for the purpose of taking action pursuant to CERCLA at such sites. Newtown Creek was listed pursuant to EPA rulemaking by publication in the *Federal Register*, on September 29, 2010. A remedial investigation and feasibility study at the Site is currently being undertaken, under EPA oversight, by a group of potentially responsible parties pursuant to an administrative settlement agreement and order on consent. The remedial investigation focuses on a Study Area which includes the sediments and the waters of Newtown Creek.

Historically, Newtown Creek drained the uplands of western Long Island and flowed through wetlands and marshes. However, due to heavy industrial development and governmental activities dating from the 1800's, formerly wet areas have been filled, Newtown Creek has been channelized, and its banks have been stabilized with bulkheads and rip rap.

The Newtown Creek area of Brooklyn and Queens has a history of extensive industrial development stretching back to the 1800s. By the second half of the nineteenth century, the area surrounding and adjacent to Newtown Creek had become highly industrialized. This development resulted in major reworking of the Creek banks and channel for drainage, municipal discharges, and navigation purposes. Hazardous substances discharged by industrial, municipal, and other sources over the years ended up in the Creek. Currently the predominant land use around Newtown Creek includes industrial, manufacturing, warehousing, transportation, municipal infrastructure, and utility facilities. Residential development is planned for the areas near the mouth of the Creek on both the Brooklyn and Queens sides.

The Site includes contaminated sediments for which there are numerous possible sources. Sampling events have shown the sediments in the Creek to be contaminated with a variety of hazardous substances which traverse almost the entire length of the Creek, and which include a wide variety of metals, pesticides, polycyclic aromatic hydrocarbons, phthalates, polychlorinated biphenyls and volatile organic contaminants.

As part of its investigation of potential sources of contamination to Newtown Creek, EPA is seeking information regarding entities which operated in the vicinity of Newtown Creek. NYCON Supply Corporation and Fordham Road Concrete Corporation are receiving this letter because EPA believes that the Companies currently operate a ready-mix concrete plant from a facility located at 47-17 27th Street, Long Island City, New York 11101 (Borough of Queens Block 115, Lot 56), with frontage on the Dutch Kills tributary of Newtown Creek, and that hazardous substances from that facility may have been discharged or released into Newtown Creek. Please note that EPA's investigation of the sources of contamination to Newtown Creek is expected to occur in phases. Thus, as EPA obtains information concerning the Site, the Agency may seek further information from your Companies about their ownership or operation of the Companies' Facility.

## INFORMATION REQUEST

This letter seeks your cooperation in providing information and documents relating to the Site. We encourage you to give this letter your immediate attention. A complete and truthful response to the attached Request for Information should be submitted to EPA within 45 days of your receipt of this letter.

Under Section 104(e) of CERCLA, EPA has broad information gathering authority which allows the Agency to require persons to provide information or documents relating to the materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant or other waste materials at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the enclosed Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with requests for information.

It is possible that some of the information that EPA is requesting may be considered by you to be confidential business information. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included with the enclosed Request for Information, including the requirement of supporting your claim of confidentiality.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by the Request for Information, it is necessary that you promptly notify EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520.

Your response to this Request for Information (in hard copy and pdf) should be sent to:

Michael A. Mintzer  
Assistant Regional Counsel  
New York/Caribbean Superfund Branch  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region II  
290 Broadway, 17th Floor  
New York, NY 10007-1866

mintzer.michael@epa.gov

with a copy (in pdf only) to:

Caroline Kwan  
Remedial Project Manager  
New York Remediation Branch  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency, Region II  
290 Broadway, 20th Floor  
New York, NY 10007-1866  
kwan.caroline@epa.gov

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, you may call Mr. Mintzer at (212) 637-3168.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,



Nicoletta DiForte  
Senior Enforcement Policy Advisor  
Emergency and Remedial Response Division

Attachments



## INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

### A. Directions

1. A complete and separate response should be given for each question.
2. Identify each answer with the number of the question to which it is addressed.
3. Please provide one hard copy as well as one pdf copy (on diskette) of your response and documents to Mr. Mintzer, and one pdf copy (on diskette) to Ms. Kwan. Please see Direction number 15, below with respect to any documents that the Companies may assert are entitled to confidential treatment.
4. For each document produced in response to this Request for Information, indicate on the document, or in some other clear manner, the question to which it applies.
5. In preparing your response to each question, consult with all present and former employees and agents of the Companies whom you have reason to believe may be familiar with the matter to which the question pertains.
6. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
7. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
8. If you have reason to believe that an individual other than one employed by the Companies, as the term is defined below, may be able to provide additional details or documentation in response to any question, identify that person.
9. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses.
10. If anything is omitted from a document produced in response to this Request for Information, state the reason for, and the subject matter of, the omission.
11. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be more specific.
12. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.
13. If a response to any question is answered completely by a response to another question, or a request for a document has been addressed by a separate production, you may cross

reference the responses so that you do not need to provide a duplicate response or duplicate documents.

14. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential business information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. Section 2.203(b).
15. If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim to be confidential, you must separately address the following points:
  - a. the portions of the information which are alleged to be entitled to confidential treatment;
  - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
  - c. measures taken by you to guard against the undesired disclosure of the information to others;
  - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
  - e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
  - f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope. For documents submitted in pdf on diskette, please send separate diskettes for confidential information.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that it is not and has not been obtainable by legitimate means without your consent. Information entitled to confidential treatment will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e) and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

## B. Definitions

1. As used herein, the term "Newtown Creek" shall refer to Newtown Creek, and shall include its five branches or tributaries, respectively Dutch Kills, Maspeth Creek, Whale Creek, East Branch and English Kills.
2. As used herein, the term "Site" shall refer to Newtown Creek and any areas that have been a source of contamination to Newtown Creek, or are places where releases of such contamination to Newtown Creek have come to be located.
3. As used herein, the term "hazardous substance" shall have the meaning set forth in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA)) are set forth at 40 CFR Part 302.
4. As used herein, the terms "hazardous waste," "disposal" and "storage" shall have the meanings set forth in Sections 1004(3), (5) and (33) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6903(3), (5) and (33), respectively.
5. As used herein, the term "industrial waste" shall mean any solid, liquid or sludge or any mixture thereof which possesses any of the following characteristics:
  - a. it contains one or more "hazardous substances" (at any concentration) as defined in 42 U.S.C. § 9601(14);
  - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5);
  - c. it has a pH less than 2.0 or greater than 12.5;
  - d. it reacts violently when mixed with water;
  - e. it generates toxic gases when mixed with water;
  - f. it easily ignites or explodes;
  - g. it is an industrial waste product;
  - h. it is an industrial treatment plant sludge or supernatant;
  - i. it is an industrial byproduct having some market value;
  - j. it is coolant water or blowdown waste from a coolant system;
  - k. it is a spent product which could be reused after rehabilitation; or
  - l. it is any material which you have reason to believe would be toxic if ingested, inhaled or placed in contact with your skin.
6. As used herein, the term "release" shall have the meaning set forth in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
7. As used herein, the term "Companies" refers to the addressees NYCON Supply Corp. and Fordham Road Concrete Corporation and each other entity, if any, affiliated (see Definition 8) with the Companies that may have owned or operated at the Facility or at any Other Newtown Creek Property (see Definition 9).

8. As used herein, the term "affiliate" or "affiliated" refers to all entities controlling, controlled by or in common control with the Companies, and whether currently in existence or no longer in existence.
9. As used herein, the terms:
  - a. "Facility" shall mean the facility located at located at 47-17 27th Street, Long Island City, New York 11101 (Borough of Queens Block 115, Lot 56), together with the structures, infrastructure and other improvements located thereon; and
  - b. "Other Newtown Creek Property(ies)" shall mean all other properties or facilities, if any, now or formerly owned or operated by the Companies within the area extending one-thousand feet from the shoreline of Newtown Creek (including each branch or tributary of Newtown Creek).
10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known employer and business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business.
11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (*e.g.*, corporation, partnership, business trust, etc.), a brief description of its business and its ultimate parent corporation.
12. Other defined terms:
  - a. As used herein, the term "Facility Plan" means one or more diagrams or depictions of the Facility providing the information requested by the Request for Information.
  - b. As used herein, the term "MSDS" means Material Safety Data Sheet.
13. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in CERCLA or RCRA or in their implementing regulations, in which case the statutory or regulatory definitions apply.



## **REQUEST FOR INFORMATION**

### **Section 1.0 Company Information**

1. Company Identification. Provide the following information with respect to each of the Companies (see Definition 7 and please provide a response for each entity).
  - a. The full legal, corporate name and mailing address.
  - b. The state and date of incorporation of the Companies, the date of qualification to do business in the State of New York and the Companies' agents for service of process in the state of incorporation and the State of New York.
  - c. The identity of the Chief Executive Officer or other presiding officer of the Companies.
  - d. If any of the Companies is a successor to any other entity by merger, asset or stock acquisition, change of name or other activity, identify each predecessor and identify the nature of the succession.
  - e. If any of the Companies is a subsidiary or division of another entity, identify each parent entity.
  - f. Identify the inter-Company relationships and the interests, if any, of each such entity at the Facility or at any Other Newtown Creek Property (see Definition 9 for "Facility" and "Other Newtown Creek Property") for:
    - i. NYCON Supply Corp.
    - ii. Fordham Road Concrete Corporation
    - iii. 27th Street Holding, LLC
    - iv. Chaves Development LLC
    - v. Principe-Danna, Inc.
    - vi. Anthony Concrete Supply Corporation
2. Future EPA Communications: If the addressee of this letter requests that future communications from EPA regarding the Site be sent to a particular individual or office, provide the name, address, telephone number, e-mail address and capacity of such individual or office.

### **Section 2.0 Company Owner/Operator Information of the Facility and Newtown Creek**

3. Companies' Relationship to the Facility. Identify the Companies' relationship to the Facility, including:
  - a. The Companies' ownership and operational interest in the Facility including the corporate identity of the entity that holds or held such interest.
  - b. Dates of acquisition, disposition and operation of the Facility and the identity and relationship, if any, between the Companies and the transferor and transferee or operator of the Facility.

- c. Provide a copy of all deeds evidencing the acquisition or disposition of the Facility and of all leases relating to the operation of the Facility.
4. Operations at the Facility. Please identify the principal business conducted at the Facility by NYCON Supply Corp., by Fordham Road Concrete Corporation and by any other business organization operating at the Facility during the entire period that the Companies operated at the Facility. Please also describe vehicle storage, fueling and maintenance activities at the Facility. If any business activities are no longer engaged in at the Facility, please specify the period that they were carried on. Please indicate on the Facility Plan (see Definition 12.a), the areas that such activities were engaged in at the Facility and identify all infrastructure employed in such activities.
5. Facility Plan and Historic Maps, Drawings, Surveys and Photographs of the Facility.
  - a. Facility Plan. Please provide a Facility Plan showing:
    - i. Buildings and improvements.
    - ii. Floor plans of buildings.
    - iii. Bulkheads, ship loading docks and truck loading racks.
    - iv. Sanitary and storm sewers.
    - v. Solid waste management units.
    - vi. Below-ground infrastructure including tanks and pipes.
    - vii. Above-ground infrastructure including tanks, spill containment facilities and pipes.
    - viii. Over-water or in-water facilities (e.g., piers, docks, cranes).
    - ix. Discharge facilities including pipes, ditches, drains, sumps, sewer connections lagoons, waste pits, tanks and other conveyance features.
  - b. Historic Photos, Maps, Surveys, Etc. Please provide such other maps, drawings, surveys (including Sanborn maps) and historic photographs (including aerial photos) in the Companies' possession as provide information relevant to the layout, construction, processes, bulkheads, cement manufacturing or mixing, or vehicle activities (washing, servicing, fueling or storage), or other operations at the Facility.
6. Historic Depiction of the Facility. Provide such other drawings, maps, photographs and, surveys, including, for example, Sanborn maps of the Facility, in the Companies' possession, showing features of the Facility either before or during the time of the Companies' ownership or operation that would provide an understanding of the configuration of and operations at the Facility.
7. Ownership of Newtown Creek. At the present time or at any past time, have the Companies:
  - a. Owned any portion of Newtown Creek or wetlands associated with Newtown Creek?

- b. Asserted control over or exclusive rights to use any area of Newtown Creek or wetlands associated with Newtown Creek, for any purpose including, without limitation, dredging or filling in Newtown Creek or construction, maintenance or repair of any facility located in the waters or the associated wetlands or sediments, including, by way of example, bulkheads, rip rap, pipes, wharfs, piers, docking, loading or unloading facilities, cranes or other over-water facilities?
- c. If the answer to either subparagraph “a” or “b” of this paragraph is yes, please identify the areas owned or controlled, or over which the Companies have or had a right to use, provide an explanation of how and from whom the Companies acquired such ownership or control, provide a copy of all title documents, leases, permits or other instruments where such right was derived, show the areas on the Facility Plan, and describe all activities conducted pursuant thereto.

8. Operations in Newtown Creek.

- a. Describe all activities at the Facility that were conducted over, on, under, or adjacent to Newtown Creek. Include in your description whether the activity involved hazardous substances, industrial waste, petroleum or other waste materials and whether any materials were ever discharged, spilled, disposed of, dropped, or otherwise came to be located in Newtown Creek.
- b. Have the Companies at any time constructed or operated any facility in or over the waters or on the sediments of Newtown Creek, including any bulkheads, rip-rap, wharfs, piers, docking, loading or unloading facilities, containment booms, cranes or other on-water or over-water facilities?
- c. Have the Companies, or any affiliate, at any time constructed, operated or utilized any facility under the waters or sediments of Newtown Creek, including without limitation pipes, pipelines, or other underwater or under sediment facilities?
- d. If the answer to subparagraph “c” or “d” of this paragraph is yes, please provide details including:
  - i. a summary of the Companies activities in, over or under the waters of Newtown Creek.
  - ii. identify the facilities constructed or operated, the dates of such construction, replacement or major modification, whether there were discharges into the waters of Newtown Creek associated with construction or maintenance of such facilities, and all permits associated with the construction or operation; and
  - iii. describe the source of the Companies’ authorization to construct or maintain such facilities in Newtown Creek including identification of the operating document (deed, lease, easement, license, permit, etc.) and the identity of the grantor, and provide copies of the relevant deeds, leases, licenses and permits.

9. Partially Submerged Vessels Adjacent to Facility. Please identify the partially submerged vessels within the turning basin of Dutch Kills adjacent to the Facility,

including the owner and the operator of the vessels, the circumstances of how the vessels came to be located at its present position within Dutch Kills, and the connection, if any, between the vessels and the Facility and the Companies.

10. Bank Erosion, Overland Transport And Overwater Activities At Or From the Facility to Dutch Kills

- a. Description of Bulkheads and Bank Stabilization. Describe all bank stabilization systems at the Facility, including bulkheads, rip rap or other systems, including construction materials and mode of construction. Identify on the Facility Plan the extent and type of shoreline stabilization at all areas of the Facility. State whether there has been or whether there is ongoing any bank erosion and identify on the Facility Plan the location of shoreline erosion. Identify the Companies' role and responsibility in building and maintaining the bulkheads and other shoreline stabilization systems. Describe the system, if any, for preventing materials upland of the bulkhead from releasing into Dutch Kills. State whether there are weep holes or gaps or openings in the bulkheads or shoreline stabilization systems and, if so, whether upland storm water, Facility materials or water from Dutch Kills passes through the bulkhead or shoreline stabilization
- b. Documents Relating to Bank Stabilization.
  - i. Provide a complete set of construction drawings and specifications relating to bulkheads and other bank stabilization systems.
  - ii. Identify all permits issued to the Companies for bulkheads or other bank stabilization systems and provide a copy of all permits and permit applications.
  - iii. Provide a copy of all correspondence with regulatory authorities relating to bulkheads and bank stabilization.
  - iv. Provide a copy of all studies, reports or plans relating to the construction, repair or maintenance of bulkheads and other shoreline stabilization systems.
  - v. Provide a copy of all contracts and invoices with third parties relating to repair or maintenance of bulkheads and other bank stabilization systems.
- c. Documents and Information Pertaining to any Characterization of these Source Pathways
  - i. Provide any characterization of the storm water/waste water pathway from the Facility or information relative to the quality of discharging waters from the Facility
  - ii. Provide any characterization of upland soil, overland flow areas or bank erosions areas that, if when encountering Facility runoff towards Dutch Kills, could entrain into a discharging stream.
  - iii. Provide any characterization of liquids (e.g. groundwater, petroleum, oil, or other liquids) that could pass through the bulkheads or rip-rap. Provide all documents that relate to your answer of this subparagraph c.



11. Outfalls into Dutch Kills. Identify and show on the Facility Plan all current and previous outfalls or discharge points from the Facility into Newtown Creek (including its Dutch Kills tributary), including location of outfall, gallons per day and source of influent. Please identify whether the outfall operates currently or is defunct and, if defunct, when the outfall operated and the circumstances of its closing. Please identify all permits associated with each outfall and state whether the outfall is permitted or not permitted. Provide a copy of all waste water management and drainage studies, reports or plans for all periods during the Companies' occupancy of the Facility.
12. Land Filling Activities. Identify on the Facility Plan all areas of the Facility where fill has been placed during the period of operations by the Companies, the lateral extent of the fill and the depth of the fill, the purpose of the placement, and the source and amount of the fill in each area. State whether the fill has ever been characterized, either before placement or thereafter and, if so, provide a copy of the sampling/characterization results.
13. Facility Storm Water Drainage. Describe how storm water is managed and drained at the Facility and depict on the Facility Plan all drainage flow and drainage infrastructure including all receiving facilities for storm water. Separately explain and depict point source drainage through pipes or other conveyances as well as sheet flow or surface water runoff. Identify and provide a copy of all permits for drainage and provide a copy of all data from sampling discharges of storm water. Provide a copy of the Companies' Storm Water Pollution Prevention Plan, Best Management Practices Plan and all drainage studies, reports or plans for all periods during the Companies' occupancy of the Facility.
14. Facility Process Water Management. Identify all waste water streams, other than sanitary waste water from rest rooms, generated at the Facility and describe the activities generating such waste water, including, without limitation, the specific ready-mix concrete operations, vehicle washing operations and other operations. Describe how process waste water and truck washing waste water is managed at the Facility and depict on the Facility Plan all process and wash waste water treatment and disposal facilities. If waste water facilities have changed over the years of the Companies' operations, describe infrastructure changes and dates placed into use. Identify and provide a copy of all permits for management or drainage of process and wash waste water. Provide a copy of all data from sampling discharges of waste water, including all data from sampling any concrete waste stream, now or formerly generated at the Facility, including pH results from sampling. Provide a copy of all waste water management and drainage studies, reports or plans for all periods during the Companies' occupancy of the Facility.
15. Connections to New York City sewer system:
  - a. State whether the Facility was connected to the New York City sewer during the Companies' ownership or operation and the date that the Facility was first connected.

- b. State whether the Facility ever discharged liquid wastes other than through the New York City sewer system and, if so, provide details on such discharges.
  - c. State whether the Facility participated in the New York City pretreatment program, and whether the Companies have ever been classified as a significant industrial user.
  - d. Provide copies of all permits and permit applications for New York City Industrial Wastewater discharge permits.
  - e. Provide copies of all notices of violations, correspondence, hearing transcripts and dispositions relating to the Companies' use of the New York City sewer system.
  - f. Provide copies of all surveys, reports or analyses delineating or characterizing the Companies' liquid wastes.
16. Other Newtown Creek Properties. Please identify each Other Newtown Creek Property (see Definition number 9.b for "Other Newtown Creek Property"), if any, currently or formerly owned or operated by the Companies (including any affiliate (see Definition 8)), including:
- a. Nature of the Companies' interest in each Other Newtown Creek Property.
  - b. Corporate identity of the entity that holds or held such interest.
  - c. Address, Borough, Block and Tax Lot Identification of each Other Newtown Creek Property.
  - d. The principal business and each other line of business conducted at each Other Newtown Creek Property.
  - e. Provide a copy of all deeds evidencing the acquisition or disposition of the Facility and of all leases relating to the operation of each Other Newtown Creek Facility.
17. Storage and Combustion of Coal. Have the Companies stored or combusted coal at the Facility during the time of its ownership or operation? If your answer is yes, please respond to the following requests for information for all periods of time that the Company operated at or owned the Facility:
- a. The purpose for which coal was present at the Facility.
  - b. The annual volume and type or types of coal (i.e. bituminous, anthracite, etc.) handled at the Facility.
  - c. The location and manner of coal storage at the Facility
  - d. Identify all coal storage, shipment and transfer and process locations on the Facility Plan.

### **Section 3.0 Companies' Operational Activities**

18. Companies' Business Operations. Describe the Companies' operations or business activities at the Facility. If the products, processes, operation, or business activity changed over time, please identify each separate operation or activity, the dates when

each operation or activity was started and, if applicable, ceased. Please describe the principal business conducted at the Facility and all other business activities conducted at each Facility. Describe the ready-mix concrete operations at the Facility and provide, by schematic diagram, the ready-mix concrete operations at the Facility. Identify all waste streams from each of the Companies' operations, and provide a copy of all sampling data from such operations. Identify all air emissions, including the processes resulting in air emissions and provide a copy of all air permits in response to question 36, below.

19. Vessels. Have the Companies utilized barges, tankers or other vessels in any operations on Newtown Creek and, if so, provide details of such operations? Identify products and raw materials transferred to or from vessels, and spill prevention controls utilized by the Companies. Identify with specificity all vessel related spills or discharges that may have occurred during the Companies' ownership or operation of the Facility.
20. Vehicles. Have the Companies utilized vehicles, in its operations at the Facility? If the answer is yes, have the Companies, at any time during the period of its operations:
  - a. Describe the purpose for the vehicles used in connection with operations at the Facility and identify the type and number of vehicles employed at the Facility.
  - b. State whether the following activities were conducted: vehicle loading; vehicle unloading, vehicle maintenance; vehicle refueling and washing of vehicles. If yes, describe each such activity and identify on the Facility Plan the area where such activity occurred.
  - c. Identify and provide a copy of all permits issued to the Companies in connection with such vehicle activities and provide a copy of all communications between the Companies and the licensing authorities.
21. Bulk Storage Containers. If the Facilities had bulk storage of petroleum or chemicals, please show the location of each storage tank on the Facility Plan and describe each tank by volume, construction materials, spill prevention and containment facilities and whether it is located above or below ground. Identify the materials stored in each tank, including the types of petroleum products and additives handled at any time during the operation of the Facilities, and identify the purpose and use of such stored materials at the Facility. Provide a copy of the material safety data sheet ("MSDS") for each such material. Provide all documents related to the permitting, inspection, maintenance, cathodic protection, product inventory levels, cleaning, and closure of such tanks and correspondence between the Companies and regulatory authorities concerning the storage tanks.
22. Chemicals and Other Materials Used, Produced and Generated at the Facility. Identify the compounds and chemicals received, stored and used at the Facility and the purpose that the compounds and chemical were acquired.
  - a. For receipt of materials, please identify all such materials, being specific in identifying such each item including brand name of any chemical or, if generic, the identity and description of such material, the purpose for which it was



received and the process in which it was employed. Please provide copies of MSDSs for each such chemical. Identify the annual volume of receipt of such materials.

- b. Identify all products produced at the Facility or shipped from the Facility and, if applicable provide copies of MSDSs. Identify the approximate annual volume of production at the Facility by product line.
  - c. Describe what the Companies did with the hazardous wastes, hazardous substances, and industrial wastes that it used, stored, generated, or otherwise handled at the Facility after it was finished with them? Describe in detail how and where the hazardous substances, hazardous wastes, and industrial wastes generated at the Facility. For each disposal location and method, state the nature and quantity of the material disposed on an annual basis.
23. Oil/Water Separators. Identify all oil/water separators at the Facility during the Companies' ownership or operation including dates of installation, dates of replacement or major modification, purpose of installation and source of influent, and location of discharge. Provide a copy of each permit and permit application, influent and effluent sampling results and copies of all submissions to federal, state, city or county environmental agencies or public health agencies relating to oil/water separators.
24. Pipelines. Identify and depict on the Facility Plan, each pipeline serving the Facility that is or was situated on the Facility property (either above- or below-ground) during the Companies' ownership or operation and state what materials are delivered to the Facility by pipeline.
25. Provide a copy, if applicable, of the Companies' Spill Prevention Control and Countermeasure Plan and Best Management Practices Plan for the Facility.

#### **Section 4.0 Civil Litigation, Administrative Enforcement and Criminal Matters**

26. Civil Litigation, Administrative Enforcement and Criminal Matters:
- a. Have the Companies been a party to any litigation or involved in any other claim where an allegation by or against the Companies included environmental contamination of Newtown Creek or contamination of the Facility or any other upland property located within 1,000 feet of Newtown Creek (whether the claim was based on the Companies' alleged ownership, operation, transporter status, or arranger relationship to the facility or some other basis)? If yes, identify such litigation or claim, briefly describe the allegation by or against the Companies, the status of the litigation or claim, and provide a copy of the pleadings and any settlement agreement or court order.
  - b. Have the Companies been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from Facility or at or from any other upland facility located within 1,000 feet of



Newtown Creek (whether the claim was based on the Companies' alleged ownership, operation, transporter status, or arranger relationship to the facility or some other basis)? If yes, state the Companies' understanding of the basis for such notice of responsibility and provide a copy of any correspondence, orders or agreements between the Companies and the governmental agency.

- c. Have the Companies or an employee, contractor or agent ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at either Facility? If so, describe the disposition of such accusation and provide details on such accusation.
- d. Please identify claims asserted against the Companies by Riverkeeper and by New York State Department of Environmental Conservation ("NYSDEC") alleging illegal discharges into Dutch Kills, including the nature of the complaints and the resolution of the complaints. Please identify all materials alleged to have been discharged into Dutch Kills and all sampling of any such materials. Please provide a copy of the respective complaints, answers by the Companies and settlements or other resolutions of such complaints

## **Section 5.0 Facility Releases, Investigations and Remediation**

- 27. Releases at or from the Facility. Have the Companies ever provided notice to or made a report to any EPA or any New York State or New York City agency concerning a spill or release involving the Facility or involving Newtown Creek? If so, describe each spill or release, the constituents of any material released, and provide copies of all communications between the Companies and federal, state or local regulatory agency. Please identify any allegations of disposal or discharge of concrete waste into Newtown Creek (including Dutch Kills).
- 28. Soil Removal Actions. Has any contaminated soil ever been excavated or removed from the Facility? If yes, identify the reason for such soil action, the dates of such action, the location at the Facility and whether the soil removal was performed under the oversight of EPA, NYSDEC or New York City Department of Environmental Protection ("NYCDEP") or any other regulatory agency. Provide copies of all reports containing a description of the soil excavation and all data and analyses and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
- 29. Groundwater Action. Have the Companies treated, pumped, or taken any kind of response action on groundwater under the Facility? If yes, identify the reason for such groundwater action, the dates of such action, the location at the Facility, and whether the groundwater action was performed under the oversight of any EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

30. Sediments. Have the Companies taken any action with respect to sediments in Dutch Kills including actions with respect to concrete waste, sand or gravel on top of the sediments. Provide a copy of all reports, studies, correspondence or other information concerning the sediments adjacent to the Facilities or concrete waste or gravel on the sediments, including actions taken to remove, retrieve or otherwise address the sediments and associated over burden.
31. Releases into Subsurface units. Was there ever a spill, leak, release or discharge of waste, or process residue, including hazardous substances, pollutants, contaminants, industrial waste, or petroleum, into any subsurface disposal system or floor drain inside or under a building situated at either of the Facility? If yes, provide details of each event and any communication with any federal, state or city regulatory body.
32. Releases to Newtown Creek. Was there ever a spill, leak, release or discharge of a hazardous substance, industrial waste, petroleum or other waste or material into Newtown Creek from the Facility or from any equipment, structure, or activity occurring on, over, or adjacent to Newtown Creek? If yes, identify such release and provide copies of any documents regarding the nature of the material released, the dates of each such occurrence, the amount and location of such release; and whether there was any action to treat or recover any materials that were the subject of the release. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
33. Environmental Investigations at the Facility. Describe the purpose for, the date of initiation and completion, and the results of any investigations of soil, water (ground or surface), sediment, geology, hydrology, or air quality on or about the Facility. Provide copies of all data, reports, and other documents that were generated by the Companies or any contractor or consultant, or by a federal or state or City regulatory agency related to the investigations that are described.
34. Monitoring Wells. Identify all groundwater monitoring wells located at the Facility, including locations at the Facility and the dates and purpose for they were installed. Provide a copy of groundwater data generated from the monitoring wells, the purpose for collection of such data, and all reports prepared for the Companies that utilized such data. Show the location of the monitoring wells on a Facility Plan.
35. Phase I, Phase II, EDR and Other Environmental Investigations. Please provide copies of all environmental investigation reports in the Companies' possession relating to the Facility. Include, without limitation, Phase I and Phase II reports, Environmental Data Resources study or report.

## **Section 6.0 Regulatory Information**

36. Regulatory Agencies with Jurisdiction Over the Facility. Identify each federal, state and local authority that regulates environmental concerns relating to the ownership or operation at the Facility, the contact point at such agency, the activity regulated and the applicable federal, state and local statute or regulation from which such regulatory authority was derived.
37. Notices of Violation. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Facility related to environmental concerns. Without limitation, identify whether any regulatory authority has notified the Companies of any discharge or runoff of waste to Dutch Kills. Provide a copy of each such notice and all further correspondence or communication relating to such notices of violation.
38. Air Emissions. Provide a list of and a copy of all Air permits issued to the Facility and a copy of all sampling data for air emissions from the Facility.
39. Environmental Permits.
  - a. Provide a list of all local, state and federal environmental permits which have been applied for or issued to the Companies with respect to the Facility for any media, e.g., water (including State Pollutant Discharge Elimination System ("SPDES")), air, New York City sewer, Industrial Pretreatment Program or any other wastewater discharge), excavation and fill in navigable waters, dredging, tidal wetlands, bulkheads, solid waste or hazardous waste, bulk storage, industrial wastewater, etc. under any environmental statute or regulation.
  - b. Provide a copy of each SPDES permit held by the Facility, whether currently in force or expired. Provide a copy of all correspondence and documents relating to the SPDES permit and the surrender of the permit.
  - c. Provide a copy of all Discharge Monitoring Reports (DMR's) applicable to the Companies' SPDES permits from January 1, 2011 to the most current date.
  - d. If the Companies contend that they are not required to have SPDES permits or air permits, state the Companies' reason for such conclusion and provide a copy of any correspondence with the appropriate governmental permit issuing agencies.

## **Section 7.0 Persons with Responsibility for Environmental Matters; Insurance and Indemnification**

40. Persons Having Responsibility for Environmental Matters at the Facility. Identify all individuals who currently have and those who have had responsibility for the Companies' environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of the Companies' wastes). Also provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of

the individual's resignation, and the nature of the information possessed by such individuals concerning the Companies' waste management.

41. Insurance and Indemnification:

- a. Provide a schedule of liability insurance policies that may provide coverage to the Companies for environmental liability associated with Newtown Creek.
- b. Identify each entity that may have a duty to indemnify the Companies for any potential environmental liability in connection with Newtown Creek, identify the circumstances giving rise to the indemnity, and provide a copy of any document that reflects a requirement to so indemnify the Companies.
- c. Identify each entity that the Companies have agreed to indemnify for any potential environmental liability in connection with Newtown Creek. Provide a copy of any document that reflects a requirement to indemnify by the Companies.



CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION  
NEWTOWN CREEK SUPERFUND SITE

State of \_\_\_\_\_:

County of \_\_\_\_\_:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Companies are under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my Companies' response thereto should become known or available to the Companies.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
SIGNATURE

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

[STAMP OR SEAL]